



Signed and Filed: January 18, 2013

Dennis Montali

DENNIS MONTALI

UNITED STATES BANKRUPTCY COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

In re

HOWREY LLP,

Debtor.

Case No. 11-31376 DM

Chapter 11

**ORDER GRANTING TRUSTEE'S
MOTION TO ENFORCE
AUTOMATIC STAY**

WHEREAS, on November 1, 2012, Howrey Claims LLC ("Howrey Claims") filed an original complaint (the "Complaint") in this Court, thereby commencing adversary proceeding number 12-03155 entitled *Howrey Claims, LLC v. Paul Alexander, et al.* (the "Adversary Proceeding");

WHEREAS, in the Complaint, Howrey Claims asserts that all of the former equity partners of Howrey are alter egos of Howrey LLP;

WHEREAS, on November 15, 2012, Allan B. Diamond (the "Trustee"), acting in his capacity as chapter 11 trustee for Howrey LLP ("Howrey"), filed his Motion for an Order Enforcing the Automatic Stay [Dkt. No. 862] (the "Stay Motion");

WHEREAS, on December 7, 2012, the Official Committee of Unsecured Creditors of Howrey LLP (the "Committee") filed a motion seeking to file under seal the Committee's Motion to Disqualify William McGrane and McGrane LLP from representing Howrey Claims LLC and any other creditors in connection with the Adversary Proceeding (the "Motion to Disqualify");

1 WHEREAS, on December 16, 2012, the Court entered an order (the “Seal Order”),
2 permitting the Committee to file the Motion to Disqualify under seal, and providing related relief
3 as set forth therein;

4 WHEREAS, on January 11, 2013, the Court held a hearing to consider the Stay Motion
5 and the opposition thereto filed by William McGrane, Esq. and Howrey Claims LLC (the “Stay
6 Hearing”);

7
8 WHEREAS, the Court having reviewed the Stay Motion and the record in this case, and
9 finding that: (a) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§157 and
10 1334; (b) this is a core proceeding pursuant to 28 U.S.C. §157(b)(2); (c) notice of the Stay
11 Motion and the Stay Hearing was sufficient under applicable law; (d) the claims asserted in the
12 Complaint are property of the Howrey chapter 11 estate pursuant to 11 U.S.C. § 541(a); and (e)
13 the legal and factual bases set forth in the Stay Motion establish just cause for the relief granted
14 herein, it is therefore hereby:

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16 ORDERED that, other than as set forth herein, the record of the Stay Hearing shall
17 constitute the Court’s findings of fact and conclusions of law with respect to the Stay Motion;
18 and it is further

19 ORDERED that, for the reasons stated on the record of the Stay Hearing, the Stay Motion
20 shall be and hereby is GRANTED; and it is further

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22 ORDERED that, for the reasons stated on the record of the Stay Hearing, pursuit of the
23 claims that are the subject matter of the Complaint in this Court or in any other venue by any
24 person or party other than the Trustee violates 11 U.S.C § 362(a)(3) which precludes “any act to
25 obtain possession of property of the estate or of property from the estate or to exercise control
26 over property of the estate”; and it is further

1 ORDERED that, for the reasons stated on the record of the Stay Hearing, Howrey Claims
2 and its counsel will be held in contempt of court should they further pursue the claims that are
3 the subject matter of the Complaint, except as specifically allowed herein; and it is further

4 ORDERED that, for the reasons set forth on the record of the Stay Hearing, the
5 Committee's Motion to Disqualify is withdrawn without prejudice to the Committee seeking
6 disqualification at any time (including without limitation any prejudice as may be asserted based
7 on laches or similar principles); provided, however, that the Committee shall not seek
8 disqualification based solely on Mr. McGrane's prosecution of appeals of this order or of the
9 Dismissal Order (as defined below); and further provided that except as set forth herein, all
10 parties reserve their rights with respect to disqualification issues; and it is further

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12 ORDERED that the Seal Order shall remain in place and in effect even after withdrawal
13 of the Motion to Disqualify pursuant to this Order, and that the Seal Order shall apply with
14 respect to any future motion to disqualify William McGrane Esq. or McGrane LLP that the
15 Committee may file; and it is further

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17 ORDERED that, for the reasons stated on the record of the Stay Hearing, the Adversary
18 Proceeding shall be dismissed pursuant to a separate order to be issued by the Court in the
19 Adversary Proceeding (the "Dismissal Order"); and it is further

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21 ORDERED that, for the reasons stated on the record of the Stay Hearing and pursuant to
22 11 U.S.C. §362(d), the automatic stay shall be and hereby is MODIFIED solely to the extent
23 necessary to allow Howrey Claims to pursue any appeal of this order or of the Dismissal Order.

24 ***END OF ORDER***
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1 **APPROVED AS TO FORM:**

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